

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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**INDUSTRIA DE ALIMENTOS  
ZENU S.A.S.,**

**Plaintiff,**

**v.**

**LATINFOOD U.S. CORP. d/b/a  
ZENÚ PRODUCTS CO., et al.,**

**Defendants.**

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**Civil Action No. 16-6576 (KM) (MAH)**

**ORDER**

This matter having come before the Court by way of (1) Plaintiff Industria de Alimentos Zenú S.A.S.'s motion for the imposition of sanctions pursuant to Federal Rules of Civil Procedure 37(c) and (e), Pl.'s Mot. for Sanctions, Oct. 8, 2021, D.E. 224; (2) Defendants Wilson Zuluaga and Latinfood U.S. Corp.'s (together "Defendants") cross-motion for sanctions pursuant to Federal Rule of Civil Procedure 37(d), Defs.' Cross-Mot., Nov. 1, 2021, D.E. 227; and (3) Plaintiff's informal letter-request to strike Defendants' cross-motion and brief in opposition to Plaintiff's sanctions motion, Pl.'s Letter-Request, Nov. 4, 2021, D.E. 228;

and the Court having considered the parties' submissions in support of and in opposition to the above-referenced motions;

and an accompanying Opinion having been filed on today's date;

and for the reasons stated in the accompanying Opinion;

and for good cause shown,

**IT IS ON THIS 26th day of May 2022,**

**ORDERED** that Plaintiff's motion for the imposition of sanctions pursuant to Federal

Rule of Civil Procedure 37 is **granted in part and denied in part**; and it is further

**ORDERED** that Defendants' cross-motion for the imposition of sanctions pursuant to Federal Rule of Civil Procedure 37(d) is **denied**; and it is further

**ORDERED** that Plaintiff's informal application to strike Defendants' cross-motion for sanctions and brief in opposition is **denied as moot**; and it is further

**ORDERED** that Plaintiff may file an affidavit attesting to its reasonable expenses, including attorneys' fees, caused by Defendants' violations of Federal Rule of Civil Procedure 37(c) on or before **June 27, 2022**. In particular, Plaintiff may seek fees and costs it incurred in (i) obtaining a neutral forensic examination of the Fronteo Drive and analyzing the contents of the Fronteo Report; (ii) preparing for and conducting Defendant Wilson Zuluaga's October 2020 deposition; (iii) obtaining a direct document production from Cibao, and in comparing Cibao's direct production to Defendants' indirect production; and (iv) bringing its motion for sanctions. Plaintiff's affidavit must set forth a description of the services for which it seeks fees and explain how those services are related to the aforementioned Rule 37(c) violations. Additionally, Plaintiff must provide proofs substantiating the total hours worked, the rates charged, any costs it seeks, and all other applicable information necessary for the Court to conduct a lodestar calculation. Defendants may respond by **July 18, 2022**; and it is further

**ORDERED** that Defendants shall undertake a good-faith, comprehensive search of (a) the three "personal" hard drives located in Defendants' warehouse in December 2019, (b) the "wilsonz" USB key, and (c) Defendants' Amazon Drive, Dropbox, One Drive, and Google Drive cloud storage files for documents relevant to this litigation.

1. Defendants shall conduct this search using the following terms: Zenu, Zenú, Ranchera, Industria, Cordialsa, Marquillas, Cibao, Isidor, Jaline, Yayi, Kaffury, "EZ

Ranking”; Hofmeister, Sidrane, Quickprint, Arnold, Dosik, Cameco, Schneider, “Network Solutions,” USTM, Briggs, and Melo.<sup>1</sup>

2. Defendants shall produce any and all relevant and discoverable materials yielding from this search to Plaintiff on or before **July 19, 2022**. To the extent Defendants raise a claim of privilege or protection in withholding any responsive materials, they must notify Plaintiff in a manner compliant with Federal Rule of Civil Procedure 26(b)(5) on or before **July 19, 2022**.
3. Defendants shall submit a certification attesting to their compliance with this Order on or before **July 22, 2022**; and it is further

**ORDERED** that to the extent Plaintiff concludes that Defendants’ production necessitates the deposition of any additional witnesses, Plaintiff shall so inform the Court and defense counsel by **August 15, 2022**. By **August 29, 2022**, the parties will inform the Court of the date for any such deposition.

**SO ORDERED.**

/s/ Michael A. Hammer  
**Hon. Michael A. Hammer,**  
**United States Magistrate Judge**

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<sup>1</sup> The Court previously ordered that these terms be utilized in the forensic examination of the Fronto Drive. *See* Order, Mar. 13, 2020, D.E. 189 (citing Exhibit A to Industria’s letter dated March 9, 2020, D.E. 186-1).